

1-1 By: Seliger S.B. No. 1387  
1-2 (In the Senate - Filed March 5, 2009; March 17, 2009, read  
1-3 first time and referred to Committee on Natural Resources;  
1-4 April 17, 2009, reported adversely, with favorable Committee  
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1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1387 By: Seliger

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the implementation of projects involving the capture,  
1-11 injection, sequestration, or geologic storage of carbon dioxide.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 27.002, Water Code, is amended by adding  
1-14 Subdivisions (19), (20), (21), (22), (23), (24), and (25) to read as  
1-15 follows:

1-16 (19) "Anthropogenic carbon dioxide":

1-17 (A) means:

1-18 (i) carbon dioxide that would otherwise  
1-19 have been released into the atmosphere that has been:

1-20 (a) stripped, segregated, or divided  
1-21 from any other fluid stream; or

1-22 (b) captured from an emissions  
1-23 source, including:

1-24 (1) an advanced clean energy  
1-25 project as defined by Section 382.003, Health and Safety Code, or  
1-26 another type of electric generation facility; or

1-27 (2) an industrial source of  
1-28 emissions;

1-29 (ii) any incidental associated substance  
1-30 derived from the source material for, or from the process of  
1-31 capturing, carbon dioxide described by Subparagraph (i); and

1-32 (iii) any substance added to carbon dioxide  
1-33 described by Subparagraph (i) to enable or improve the process of  
1-34 injecting the carbon dioxide; and

1-35 (B) does not include naturally occurring carbon  
1-36 dioxide that is recaptured, recycled, and reinjected as part of  
1-37 enhanced recovery operations.

1-38 (20) "Anthropogenic carbon dioxide injection well"  
1-39 means an injection well used to inject or transmit anthropogenic  
1-40 carbon dioxide into a reservoir.

1-41 (21) "Enhanced recovery operation" means the use of  
1-42 any process for the displacement of hydrocarbons from a reservoir  
1-43 other than primary recovery and includes the use of any physical,  
1-44 chemical, thermal, or biological process and any co-production  
1-45 project.

1-46 (22) "Geologic storage" means the underground storage  
1-47 of anthropogenic carbon dioxide in a reservoir.

1-48 (23) "Geologic storage facility" means the  
1-49 underground reservoir, underground equipment, injection wells, and  
1-50 surface buildings and equipment used or to be used for the geologic  
1-51 storage of anthropogenic carbon dioxide and all surface and  
1-52 subsurface rights and appurtenances necessary to the operation of a  
1-53 facility for the geologic storage of anthropogenic carbon dioxide.  
1-54 The term includes any reasonable and necessary areal buffer and  
1-55 subsurface monitoring zones, pressure fronts, and other areas as  
1-56 may be necessary for this state to receive delegation of any federal  
1-57 underground injection control program relating to the storage of  
1-58 carbon dioxide. The term does not include a pipeline used to  
1-59 transport carbon dioxide from the facility at which the carbon  
1-60 dioxide is captured to the geologic storage facility. The storage  
1-61 of carbon dioxide incidental to or as part of enhanced recovery  
1-62 operations does not in itself automatically render a facility a  
1-63 geologic storage facility.

2-1 (24) "Oil or gas" means oil, natural gas, or gas  
 2-2 condensate.

2-3 (25) "Reservoir" means a natural or artificially  
 2-4 created subsurface sedimentary stratum, formation, aquifer,  
 2-5 cavity, void, or coal seam.

2-6 SECTION 2. Chapter 27, Water Code, is amended by adding  
 2-7 Subchapter C-1 to read as follows:

2-8 SUBCHAPTER C-1. GEOLOGIC STORAGE AND ASSOCIATED INJECTION OF  
 2-9 ANTHROPOGENIC CARBON DIOXIDE

2-10 Sec. 27.041. JURISDICTION. (a) Except as provided by  
 2-11 Subsection (b), the railroad commission has jurisdiction over the  
 2-12 geologic storage of carbon dioxide in, and the injection of carbon  
 2-13 dioxide into, a reservoir that is initially or may be productive of  
 2-14 oil, gas, or geothermal resources or a saline formation directly  
 2-15 above or below that reservoir.

2-16 (b) The jurisdiction of the railroad commission over the  
 2-17 geologic storage of carbon dioxide in, and the injection of carbon  
 2-18 dioxide into, a saline formation described by Subsection (a) is  
 2-19 subject to the review of the legislature based on the  
 2-20 recommendations made in the preliminary report described by Section  
 2-21 10, S.B. No. 1387, Acts of the 81st Legislature, Regular Session,  
 2-22 2009.

2-23 (c) Except as provided by Subsection (b), the railroad  
 2-24 commission has jurisdiction over a well used for the purpose  
 2-25 provided by Subsection (a) regardless of whether the well was  
 2-26 initially completed for that purpose or was initially completed for  
 2-27 another purpose and is converted to the purpose provided by  
 2-28 Subsection (a).

2-29 Sec. 27.042. APPLICABILITY. This subchapter does not apply  
 2-30 to the injection of fluid through the use of a Class II injection  
 2-31 well as defined by 40 C.F.R. Section 144.6(b) for the primary  
 2-32 purpose of enhanced recovery operations.

2-33 Sec. 27.043. PERMIT FROM RAILROAD COMMISSION. A person may  
 2-34 not begin drilling or operating an anthropogenic carbon dioxide  
 2-35 injection well for geologic storage or constructing or operating a  
 2-36 geologic storage facility regulated under this subchapter without  
 2-37 first obtaining the necessary permits from the railroad commission.

2-38 Sec. 27.044. INFORMATION REQUIRED OF APPLICANT. The  
 2-39 railroad commission shall require an applicant to provide any  
 2-40 information the railroad commission considers necessary to  
 2-41 discharge its duties under this subchapter.

2-42 Sec. 27.045. FEES. (a) The railroad commission may impose  
 2-43 fees to cover the cost of:

2-44 (1) permitting, monitoring, and inspecting  
 2-45 anthropogenic carbon dioxide injection wells for geologic storage  
 2-46 and geologic storage facilities; and

2-47 (2) enforcing and implementing this subchapter and  
 2-48 rules adopted by the railroad commission under this subchapter.

2-49 (b) Fees collected by the railroad commission under this  
 2-50 section shall be deposited to the credit of the anthropogenic  
 2-51 carbon dioxide storage trust fund established under Section  
 2-52 120.003, Natural Resources Code.

2-53 Sec. 27.046. LETTER FROM EXECUTIVE DIRECTOR. (a) An  
 2-54 application to the railroad commission for a permit under rules  
 2-55 adopted under this subchapter must include a letter from the  
 2-56 executive director stating that drilling and operating the  
 2-57 anthropogenic carbon dioxide injection well for geologic storage or  
 2-58 operating the geologic storage facility will not injure any  
 2-59 freshwater strata in that area and that the formation or stratum to  
 2-60 be used for the geologic storage facility is not freshwater sand.

2-61 (b) To make the determination required by Subsection (a),  
 2-62 the executive director shall review:

2-63 (1) the area of review and corrective action plans;

2-64 (2) any subsurface monitoring plans required during  
 2-65 injection or post injection;

2-66 (3) any postinjection site care plans; and

2-67 (4) any other elements of the application reasonably  
 2-68 required in order for the executive director to make the  
 2-69 determination required by Subsection (a).

3-1 (c) The commission shall adopt rules to implement and  
3-2 administer this section.

3-3 Sec. 27.047. RULES. The railroad commission shall adopt  
3-4 rules and procedures reasonably required for the performance of its  
3-5 powers, duties, and functions under this subchapter, including  
3-6 rules for:

3-7 (1) the geologic storage and associated injection of  
3-8 anthropogenic carbon dioxide, including:

- 3-9 (A) geologic site characterization;
- 3-10 (B) area of review and corrective action;
- 3-11 (C) well construction;
- 3-12 (D) operation;
- 3-13 (E) mechanical integrity testing;
- 3-14 (F) monitoring;
- 3-15 (G) well plugging;
- 3-16 (H) postinjection site care;
- 3-17 (I) site closure; and
- 3-18 (J) long-term stewardship;

3-19 (2) the enforcement of this subchapter and rules  
3-20 adopted by the railroad commission under this subchapter; and

3-21 (3) the collection and administration of:  
3-22 (A) fees imposed under Section 27.045; and  
3-23 (B) penalties imposed for a violation of this  
3-24 subchapter or rules adopted by the railroad commission under this  
3-25 subchapter.

3-26 Sec. 27.048. CONSISTENCY WITH AND IMPLEMENTATION OF FEDERAL  
3-27 REQUIREMENTS. (a) Rules adopted by the commission or the railroad  
3-28 commission under this subchapter must be consistent with applicable  
3-29 rules or regulations adopted by the United States Environmental  
3-30 Protection Agency or another federal agency governing the injection  
3-31 and geologic storage of anthropogenic carbon dioxide.

3-32 (b) If rules or regulations adopted to govern the geologic  
3-33 storage and associated injection of anthropogenic carbon dioxide  
3-34 under the federal Safe Drinking Water Act (42 U.S.C. Section 300f et  
3-35 seq.) or another federal statute allow this state to seek primary  
3-36 enforcement authority under the underground injection control  
3-37 program:

3-38 (1) the commission and the railroad commission shall  
3-39 seek primacy to administer and enforce the program subject to the  
3-40 jurisdiction granted under this subchapter; and

3-41 (2) this state shall seek primacy to administer and  
3-42 enforce the program for the geologic storage of carbon dioxide in,  
3-43 and the injection of carbon dioxide into, a saline formation.

3-44 Sec. 27.049. MEMORANDUM OF UNDERSTANDING. The commission  
3-45 and the railroad commission, as necessary to comply with this  
3-46 subchapter, by rule shall:

3-47 (1) amend the memorandum of understanding recorded in  
3-48 16 T.A.C. Section 3.30; or

3-49 (2) enter into a new memorandum of understanding.

3-50 Sec. 27.050. FINANCIAL RESPONSIBILITY. (a) A person to  
3-51 whom a permit is issued under this subchapter must provide to the  
3-52 railroad commission annually evidence of financial responsibility  
3-53 that is satisfactory to the railroad commission.

3-54 (b) In determining whether the person is financially  
3-55 responsible, the railroad commission shall rely on:

3-56 (1) the person's most recent quarterly report filed  
3-57 with the United States Securities and Exchange Commission under  
3-58 Section 13 or 15(d), Securities Exchange Act of 1934 (15 U.S.C.  
3-59 Section 78m or 78o(d)); or

3-60 (2) if the person is not required to file with the  
3-61 United States Securities and Exchange Commission a report described  
3-62 by Subdivision (1), the person's most recent audited financial  
3-63 statement.

3-64 SECTION 3. Section 27.051, Water Code, is amended by  
3-65 amending Subsection (b) and adding Subsection (b-1) to read as  
3-66 follows:

3-67 (b) The railroad commission may grant an application for a  
3-68 permit under Subchapter C in whole or part and may issue the permit  
3-69 if it finds:

4-1 (1) that the use or installation of the injection well  
4-2 is in the public interest;

4-3 (2) that the use or installation of the injection well  
4-4 will not endanger or injure any oil, gas, or other mineral  
4-5 formation;

4-6 (3) that, with proper safeguards, both ground and  
4-7 surface fresh water can be adequately protected from pollution; and

4-8 (4) that the applicant has made a satisfactory showing  
4-9 of financial responsibility if required by Section 27.073 [~~of this~~  
4-10 ~~code~~].

4-11 (b-1) The railroad commission may issue a permit under  
4-12 Subchapter C-1 if it finds:

4-13 (1) that the injection and geologic storage of  
4-14 anthropogenic carbon dioxide will not endanger or injure any oil,  
4-15 gas, or other mineral formation;

4-16 (2) that, with proper safeguards, both ground and  
4-17 surface freshwater can be adequately protected from carbon dioxide  
4-18 migration or displaced formation fluids;

4-19 (3) that the injection of anthropogenic carbon dioxide  
4-20 will not endanger or injure human health and safety;

4-21 (4) that the reservoir into which the anthropogenic  
4-22 carbon dioxide is injected is suitable for or capable of being made  
4-23 suitable for protecting against the escape or migration of  
4-24 anthropogenic carbon dioxide from the reservoir; and

4-25 (5) that the applicant for the permit meets all of the  
4-26 other statutory and regulatory requirements for the issuance of the  
4-27 permit.

4-28 SECTION 4. Sections 27.071 and 27.072, Water Code, are  
4-29 amended to read as follows:

4-30 Sec. 27.071. POWER TO ENTER PROPERTY. Members of the  
4-31 commission and the railroad commission and employees of the  
4-32 commission and the railroad commission may enter public or private  
4-33 property to inspect and investigate conditions relating to  
4-34 injection well, monitoring well, disposal well, [~~or~~] production  
4-35 well, or geologic storage activities within their respective  
4-36 jurisdictions or to monitor compliance with a rule, permit, or  
4-37 other order of the commission or railroad commission. Members or  
4-38 employees acting under the authority of this section who enter an  
4-39 establishment on public or private property shall observe the  
4-40 establishment's safety, internal security, and fire protection  
4-41 rules.

4-42 Sec. 27.072. POWER TO EXAMINE RECORDS. Members of the  
4-43 commission and the railroad commission and employees of the  
4-44 commission and railroad commission may examine and copy those  
4-45 records or memoranda of a business they are investigating as  
4-46 provided by Section 27.071 [~~of this code~~] that relate to the  
4-47 operation of an injection well, monitoring well, disposal well,  
4-48 [~~or~~] production well, or geologic storage facility, or any other  
4-49 records required to be maintained by law.

4-50 SECTION 5. Section 27.073, Water Code, is amended by  
4-51 amending Subsection (a) and adding Subsection (b-1) to read as  
4-52 follows:

4-53 (a) A person to whom an injection well permit is issued may  
4-54 be required by the commission or railroad commission to maintain a  
4-55 performance bond or other form of financial security to ensure  
4-56 that:

4-57 (1) an abandoned injection well is properly plugged;  
4-58 or

4-59 (2) funds are available for plugging, postinjection  
4-60 site care, and closure of an anthropogenic carbon dioxide injection  
4-61 well subject to Subchapter C-1.

4-62 (b-1) The railroad commission is authorized to receive  
4-63 funds as the beneficiary of a financial responsibility mechanism  
4-64 established under this chapter for the proper management of an  
4-65 anthropogenic carbon dioxide injection well or geologic storage  
4-66 facility.

4-67 SECTION 6. Chapter 91, Natural Resources Code, is amended  
4-68 by adding Subchapter R to read as follows:

4-69 SUBCHAPTER R. AUTHORIZATION FOR MULTIPLE OR ALTERNATIVE USES OF

WELLS

5-1 Sec. 91.801. RULES AUTHORIZING MULTIPLE OR ALTERNATIVE USES  
 5-2 OF WELLS. The commission shall adopt rules allowing:

5-3 (1) a person to obtain a permit for a well from the  
 5-4 commission that authorizes the well to be used for multiple  
 5-5 purposes; and

5-6 (2) an operator of a well authorized by a permit issued  
 5-7 by the commission to convert the well from its authorized purpose to  
 5-8 a new or additional purpose.

5-9 Sec. 91.802. LAW APPLICABLE TO GEOLOGIC STORAGE FACILITIES  
 5-10 AND ASSOCIATED INJECTION WELLS. (a) In this section,  
 5-11 "anthropogenic carbon dioxide injection well" has the meaning  
 5-12 assigned by Section 27.002, Water Code.

5-13 (b) If a well is authorized as or converted to an  
 5-14 anthropogenic carbon dioxide injection well for geologic storage,  
 5-15 Subchapter C-1, Chapter 27, Water Code, applies to the well.

5-16 (c) A conversion of an anthropogenic carbon dioxide  
 5-17 injection well from use for enhanced recovery operations to use for  
 5-18 geologic storage is not considered to be a change in the purpose of  
 5-19 the well.

5-20 SECTION 7. Subtitle D, Title 3, Natural Resources Code, is  
 5-21 amended by adding Chapter 120 to read as follows:

5-22 CHAPTER 120. OWNERSHIP AND STEWARDSHIP OF ANTHROPOGENIC CARBON  
 5-23 DIOXIDE

5-24 Sec. 120.001. DEFINITIONS. In this chapter:

5-25 (1) "Anthropogenic carbon dioxide," "anthropogenic  
 5-26 carbon dioxide injection well," and "geologic storage facility"  
 5-27 have the meanings assigned by Section 27.002, Water Code.

5-28 (2) "Commission" means the Railroad Commission of  
 5-29 Texas.

5-30 (3) "Storage operator" means a person authorized by  
 5-31 the commission to operate a geologic storage facility.

5-32 Sec. 120.002. OWNERSHIP OF ANTHROPOGENIC CARBON DIOXIDE.  
 5-33 (a) This section does not apply to anthropogenic carbon dioxide  
 5-34 injected for the primary purpose of enhanced recovery operations.

5-35 (b) Unless otherwise expressly provided by a contract, bill  
 5-36 of sale, deed, mortgage, deed of trust, or other legally binding  
 5-37 document or by other law, anthropogenic carbon dioxide stored in a  
 5-38 geologic storage facility is considered to be the property of the  
 5-39 storage operator or the storage operator's heirs, successors, or  
 5-40 assigns.

5-41 (c) Absent a final judgment of wilful abandonment rendered  
 5-42 by a court or a regulatory determination of closure or abandonment,  
 5-43 anthropogenic carbon dioxide stored in a geologic storage facility  
 5-44 is not considered to be the property of the owner of the surface or  
 5-45 mineral estate in the land in which the anthropogenic carbon  
 5-46 dioxide is stored or of a person claiming under the owner of the  
 5-47 surface or mineral estate.

5-48 (d) The owner, as designated by Subsection (b) or (c), of  
 5-49 the anthropogenic carbon dioxide stored in a geologic storage  
 5-50 facility, or the owner's heirs, successors, or assigns, may  
 5-51 produce, take, extract, or otherwise possess anthropogenic carbon  
 5-52 dioxide stored in the facility.

5-53 Sec. 120.003. ANTHROPOGENIC CARBON DIOXIDE STORAGE TRUST  
 5-54 FUND. (a) The anthropogenic carbon dioxide storage trust fund is  
 5-55 created as a special fund in the state treasury.

5-56 (b) The anthropogenic carbon dioxide storage trust fund is  
 5-57 an interest-bearing fund. Interest earned on money in the fund  
 5-58 shall be deposited to the credit of the fund.

5-59 (c) Fees collected by the commission under Subchapter C-1,  
 5-60 Chapter 27, Water Code, and penalties imposed for violations of  
 5-61 that subchapter or rules adopted under that subchapter shall be  
 5-62 deposited to the credit of the anthropogenic carbon dioxide storage  
 5-63 trust fund.

5-64 (d) The anthropogenic carbon dioxide storage trust fund may  
 5-65 be used by the commission only for:

5-66 (1) inspecting, monitoring, investigating, recording,  
 5-67 and reporting on geologic storage facilities and associated  
 5-68 anthropogenic carbon dioxide injection wells;  
 5-69

6-1 (2) long-term monitoring of geologic storage  
6-2 facilities and associated anthropogenic carbon dioxide injection  
6-3 wells;

6-4 (3) remediation of mechanical problems associated  
6-5 with geologic storage facilities and associated anthropogenic  
6-6 carbon dioxide injection wells;

6-7 (4) repairing mechanical leaks at geologic storage  
6-8 facilities;

6-9 (5) plugging abandoned anthropogenic carbon dioxide  
6-10 injection wells used for geologic storage;

6-11 (6) training and technology transfer related to  
6-12 anthropogenic carbon dioxide injection and geologic storage; and

6-13 (7) compliance and enforcement activities related to  
6-14 geologic storage and associated anthropogenic carbon dioxide  
6-15 injection wells.

6-16 Sec. 120.004. EXTRACTION OF STORED ANTHROPOGENIC CARBON  
6-17 DIOXIDE. (a) The commission shall adopt rules allowing  
6-18 anthropogenic carbon dioxide stored in a geologic storage facility  
6-19 to be extracted for a commercial or industrial use.

6-20 (b) The commission has jurisdiction over the extraction of  
6-21 anthropogenic carbon dioxide stored in a geologic storage facility.

6-22 SECTION 8. Section 27.038, Water Code, is repealed.

6-23 SECTION 9. (a) In this section:

6-24 (1) "Anthropogenic carbon dioxide," "geologic  
6-25 storage," and "geologic storage facility" have the meanings  
6-26 assigned by Section 27.002, Water Code, as amended by this Act.

6-27 (2) "State-owned land" includes state-owned submerged  
6-28 land.

6-29 (b) Not later than December 1, 2010, the Commissioner of the  
6-30 General Land Office shall prepare and file with the legislature a  
6-31 preliminary report on a recommended framework for managing  
6-32 activities related to geologic storage on state-owned land. The  
6-33 report shall include:

6-34 (1) recommended criteria for identifying candidate  
6-35 geologic storage sites in each of the following types of onshore and  
6-36 offshore geological settings:

6-37 (A) operating oil and gas fields;

6-38 (B) depleted oil and gas fields;

6-39 (C) unmineable coal seams;

6-40 (D) saline formations;

6-41 (E) geological systems that may be used as  
6-42 engineered reservoirs to extract economical quantities of heat from  
6-43 geothermal resources of low permeability or porosity;

6-44 (F) geological systems containing igneous  
6-45 formations; and

6-46 (G) coalbeds being used for methane recovery;

6-47 (2) a proposed regulatory framework for leasing  
6-48 state-owned land for geologic storage, including an assessment of  
6-49 options to ensure that the state receives fair market value for  
6-50 using state-owned property for geologic storage;

6-51 (3) a proposed procedure for:

6-52 (A) providing an opportunity for public review  
6-53 of, and the presentation of comments by interested persons  
6-54 regarding, any activities related to geologic storage on  
6-55 state-owned land; and

6-56 (B) ensuring that the quality of the natural and  
6-57 cultural resources of state-owned land overlying the site of a  
6-58 geologic storage facility are protected from any geologic storage  
6-59 activities at the site;

6-60 (4) a description of the status of leasehold or  
6-61 mineral estate liability issues related to the geological  
6-62 subsurface trespass of, or caused by, anthropogenic carbon dioxide  
6-63 stored in state-owned land, including any relevant experience from  
6-64 enhanced oil recovery using carbon dioxide on state-owned land;

6-65 (5) recommendations for additional legislation that  
6-66 may be required to ensure that public land management and leasing  
6-67 laws are adequate to accommodate geologic storage;

6-68 (6) an identification of the legal and regulatory  
6-69 issues specific to geologic storage in cases in which title to the

7-1 mineral estate is held by the state but title to the surface estate  
7-2 is not held by the state; and

7-3 (7) recommendations for additional legislation that  
7-4 may be required to clarify the appropriate framework for issuing  
7-5 rights-of-way for anthropogenic carbon dioxide pipelines on  
7-6 state-owned land.

7-7 (c) In preparing the preliminary report under Subsection  
7-8 (b) of this section, the Commissioner of the General Land Office  
7-9 shall coordinate with:

7-10 (1) the Bureau of Economic Geology of The University  
7-11 of Texas at Austin;

7-12 (2) the Railroad Commission of Texas;

7-13 (3) the Texas Commission on Environmental Quality; and

7-14 (4) the heads of other appropriate agencies.

7-15 (d) This section expires December 31, 2010.

7-16 SECTION 10. (a) In this section, "anthropogenic carbon  
7-17 dioxide," "geologic storage," and "geologic storage facility" have  
7-18 the meanings assigned by Section 27.002, Water Code, as amended by  
7-19 this Act.

7-20 (b) Not later than December 1, 2010, the Texas Commission on  
7-21 Environmental Quality and the Railroad Commission of Texas, in  
7-22 consultation with the Bureau of Economic Geology of The University  
7-23 of Texas at Austin, shall prepare and file with the legislature a  
7-24 joint preliminary report that:

7-25 (1) analyzes the requirements for the injection and  
7-26 geologic storage of anthropogenic carbon dioxide into saline  
7-27 formations that are not productive of oil, gas, or geothermal  
7-28 resources;

7-29 (2) recommends a permitting process for anthropogenic  
7-30 carbon dioxide injection wells and geologic storage facilities that  
7-31 are used for the injection and storage of anthropogenic carbon  
7-32 dioxide in saline formations not productive of oil, gas, or  
7-33 geothermal resources;

7-34 (3) recommends the agency or agencies that should have  
7-35 jurisdiction over permitting described by Subdivision (2) of this  
7-36 subsection or any other permitting of geologic storage facilities  
7-37 not subject to Subchapter C-1, Chapter 27, Water Code; and

7-38 (4) assesses the status of compliance with any federal  
7-39 rules regulating the geologic storage and associated injection of  
7-40 anthropogenic carbon dioxide.

7-41 (c) The preliminary report shall include:

7-42 (1) recommended criteria for identifying candidate  
7-43 geologic storage sites in each of the following types of geological  
7-44 settings:

7-45 (A) operating oil and gas fields;

7-46 (B) depleted oil and gas fields;

7-47 (C) unmineable coal seams;

7-48 (D) saline formations;

7-49 (E) geological systems that may be used as  
7-50 engineered reservoirs to extract economical quantities of heat from  
7-51 geothermal resources of low permeability or porosity;

7-52 (F) geological systems containing igneous  
7-53 formations; and

7-54 (G) coalbeds being used for methane recovery;

7-55 (2) a proposed procedure for:

7-56 (A) providing an opportunity for public review  
7-57 of, and the presentation of comments by interested persons  
7-58 regarding, any activities related to geologic storage; and

7-59 (B) ensuring that the quality of the natural and  
7-60 cultural resources of land overlying the site of a geologic storage  
7-61 facility are protected from any geologic storage activities at the  
7-62 site;

7-63 (3) a description of the status of leasehold or  
7-64 mineral estate liability issues related to the geological  
7-65 subsurface trespass of, or caused by, anthropogenic carbon dioxide  
7-66 stored in private or state-owned land, including any relevant  
7-67 experience from enhanced recovery operations using carbon dioxide;

7-68 (4) an analysis of and recommendations to address:

7-69 (A) the attributes of the subsurface area of

8-1 operations for geologic storage facilities; and  
8-2 (B) the methods of financial assurance and the  
8-3 allocation of long-term liability for the post-operational phases  
8-4 of geologic storage projects;

8-5 (5) the status of any applications for permits that  
8-6 have been received before the report is prepared;

8-7 (6) an update on the exchange of information between  
8-8 the Texas Commission on Environmental Quality and the Railroad  
8-9 Commission of Texas as required by the memorandum of understanding  
8-10 described by Section 27.049, Water Code, as added by this Act, and  
8-11 as required by Section 27.046, Water Code, as added by this Act;

8-12 (7) the status of any request for primary enforcement  
8-13 authority for the underground injection and geologic storage of  
8-14 anthropogenic carbon dioxide under the underground injection  
8-15 control program; and

8-16 (8) any recommendations for additional legislation,  
8-17 modifications to the memorandum of understanding, or new rules for  
8-18 regulating geologic storage facilities and associated  
8-19 anthropogenic carbon dioxide injection wells.

8-20 (d) This section expires December 31, 2010.

8-21 SECTION 11. (a) The Texas Commission on Environmental  
8-22 Quality shall adopt rules under Section 27.046, Water Code, as  
8-23 added by this Act, as soon as practicable after the effective date  
8-24 of this Act.

8-25 (b) Not later than March 1, 2010, the Railroad Commission of  
8-26 Texas shall adopt rules under Section 27.047, Water Code, as added  
8-27 by this Act, for the geologic storage and associated injection of  
8-28 carbon dioxide in connection with enhanced recovery operations,  
8-29 excluding enhanced recovery operations for which:

8-30 (1) there is a reasonable expectation of more than  
8-31 insignificant future production volumes or rates as a result of the  
8-32 injection of anthropogenic carbon dioxide; and

8-33 (2) operating pressures are not higher than reasonably  
8-34 necessary to produce the production volumes or rates described by  
8-35 Subdivision (1) of this subsection.

8-36 (c) Not later than September 1, 2010, the Railroad  
8-37 Commission of Texas shall adopt rules under Section 27.047, Water  
8-38 Code, as added by this Act, for the geologic storage of carbon  
8-39 dioxide in, and the injection of carbon dioxide into, a reservoir  
8-40 that is initially or may be productive of oil, gas, or geothermal  
8-41 resources.

8-42 (d) The Texas Commission on Environmental Quality and the  
8-43 Railroad Commission of Texas shall adopt rules under Section  
8-44 27.049, Water Code, as added by this Act, as soon as practicable  
8-45 after the effective date of this Act.

8-46 (e) The Railroad Commission of Texas shall adopt rules under  
8-47 Sections 91.801 and 120.004, Natural Resources Code, as added by  
8-48 this Act, as soon as practicable after the effective date of this  
8-49 Act.

8-50 SECTION 12. This Act takes effect September 1, 2009.

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